

Commodity Futures Trading Commission

§ 10.65

to be considered with the part introduced, and any party may introduce any other parts.

(3) Objection may be made at a hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995]

Subpart E—Hearings

§ 10.61 Time and place of hearing.

(a) *Notice.* All parties shall be notified of the time and place of hearing, which shall be fixed with due regard for the public interest and the convenience and necessity of the parties and their representatives.

(b) *Requests for change.* A request for postponement of a hearing or for a change in the place assigned for hearing will be granted by the Administrative Law Judge only for good cause shown.

§ 10.62 Appearances.

(a) *Who may appear.* The parties may appear in person, by counsel or by other representatives of their choosing, subject to the provisions of § 10.11 of these rules and part 14 of this chapter, dealing with appearance and practice before the Commission.

(b) *Effect of failure to appear.* (1) If any party to the proceeding, after filing an answer fails to appear at the hearing or any part thereof, he shall to that extent be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present may present his evidence, in whole or in part, in the form of affidavits or by oral testimony, before the Administrative Law Judge.

(2) A failure to appear at a hearing shall not constitute a waiver of a party's right to propose findings of fact based on the record in the proceeding, to propose conclusions of law or to submit briefs, in the manner provided in § 10.82, if the non-appearing party submits prior to the scheduled hearing or within three days thereafter, a notice

of appearance indicating his intent to continue to participate in the proceeding. Otherwise, his failure to appear will constitute a default, and a default order may be sought in accordance with procedures set forth in § 10.93 of these rules.

§ 10.63 Consolidation; separate hearings.

(a) *Consolidation.* Two or more proceedings involving a common question of law or fact may be joined for hearing of any or all the matters in issue or may be consolidated by order of the Administrative Law Judge. The Administrative Law Judge may make such rulings concerning the conduct of such proceedings as may tend to avoid unnecessary costs or delay.

(b) *Separate Hearings.* The Administrative Law Judge, for the convenience of the parties, to avoid prejudice, or to expedite final resolution of the issues, may order a separate hearing of any claim or issue, or grant a separate hearing to any respondent.

§ 10.64 Public hearings.

All hearings shall be public, except that upon application of a respondent or affected witness the Administrative Law Judge may direct that specific documents or testimony be received and retained non-publicly in order to prevent unwarranted disclosure of trade secrets or sensitive commercial or financial information or an unwarranted invasion of personal privacy.

§ 10.65 Record of hearing.

(a) *Reporting and transcription.* Hearings for the purpose of taking evidence shall be recorded and transcribed in written form under the supervision of the Administrative Law Judge by a reporter employed by the Commission for that purpose. The original transcript shall be a part of the record and shall be the sole official transcript. Copies of transcripts, except those portions granted non-public treatment, shall be available from the reporter at rates not to exceed the maximum rates fixed by the contract between the Commission and the reporter.